

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-016497

11/08/2004

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT
D. Raybon
Deputy

FILED: 11/11/2004

PENNY A BRAND, et al.

DAVID NEAL ROSEN
DONALD W HARRIS

v.

ARIZONA STADIUM PARKING GARAGE L L
C, et al.

BRADLEY R JARDINE
ALTERNATIVE DISPUTE
RESOLUTION - CCC

MINUTE ENTRY

In chambers: This is the time set for Telephonic Rule 16 Pretrial Conference. Appearing telephonically are Donald Harris and David Rosen, counsel for Plaintiffs and Bradley Jardine, counsel for Defendants.

No court reporter is present.

The Court conducts a scheduling conference. Based thereon, the Court enters the following orders:

1. Adopting and incorporating herein the parties' agreements and deadlines set forth in the Plaintiff's Pretrial Conference Memorandum, filed November 3, 2004, except as modified by this minute entry.
2. This matter is referred to the Court's Alternative Dispute Resolution Office for the appointment of a Judge *Pro Tempore* to conduct a settlement conference. Counsel and/or the parties are instructed that ADR will not set the settlement conference and therefore they should not contact the office of ADR. Counsel and/or the parties will be notified by ADR by minute entry upon the appointment of a Judge *Pro Tempore*

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and at that time should contact the appointed Judge *Pro Tempore* to arrange the time and location for the settlement conference. The Judge *Pro Tempore* is requested to conduct a settlement conference no later than **February 9, 2005**.

All counsel and their clients, or non-lawyer representatives who have full and complete authority to settle this case, shall personally appear and participate in good faith in this settlement conference even if no settlement is expected.

3. This matter is set for a **3-day Jury Trial on June 1, 2005 at 10:00 a.m.** in this division. **THIS IS A FIRM TRIAL DATE.** Additional orders in this regard shall be contained later in this minute entry.

The proceeding will take place in the Superior Court's new "e-courtroom." A record of the proceedings may be made by videotape and CD in lieu of a court reporter. Should you want an unofficial copy of the proceedings, the court will make a VHS videotape or "burn" a CD of the day's proceedings for a fee of \$20.00. If a CD or videotape is requested, please obtain a form from the courtroom clerk or from the Self Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee **at the Self Service Center**. Attach the receipt showing payment of the fee and present both the receipt and the form to the courtroom clerk or bailiff. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.** The CD-R disk may be viewed using Microsoft's Media Player or JAVS' CaseViewer. "CaseViewer" is available for free from Jefferson Audio Visual Systems at:

<http://www.javs.com/downloads/programs.htm>

Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the court's digital video recording system before requesting a court reporter. To request a transcript, call 602-506-7100 and provide the date of the proceeding, the case number, the case caption, if the transcript is for an appeal, and your name, address, and telephone number.

If a court reporter is required, the Court must receive a written request at least 48 hours before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

The Court suggests that counsel prepare the case for presentation using the courtroom technology. To facilitate presentation of exhibits, counsel should consider having all documents (medical records, business records, photographs, etc.) that may be used in the case scanned in a non-proprietary format with the

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cost shared by the parties. It is suggested that the depositions of witnesses who may not be available for trial be videotaped.

4. A **Pretrial Management Conference** is set on **May 9, 2005 at 10:00 a.m.** The Court has set aside 30 minutes for said hearing. **If counsel feel significantly more or less time is needed to complete this hearing, counsel should contact the Court's Judicial Assistant at least 30 days prior to the Pretrial Management Conference so that scheduling can be addressed.**

The joint pretrial statement in accordance with Rule 16(d), A.R.C.P., is **due by 5:00 p.m., five (5) days prior to the management conference.** In addition to the information required by Rule 16(d), counsel are to identify in/with the joint pretrial statement all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony, and the reasons for such objections, are also to be set forth.

Matter concludes.

Pursuant to the foregoing trial setting, the Court enters the following additional orders:

1. No less than **five (5) judicial days prior to management conference**, counsel (or the parties) shall file:
 - A. Requested jury instructions, and any voir dire questions counsel request that the Court ask. The Judge would appreciate counsel providing a copy of the jury instruction requests on IBM-compatible double-sided, high density 3.5 inch diskettes, in Microsoft Word;
 - B. Any trial memoranda (optional), which will be in lieu of post-trial briefs unless otherwise requested by the Court at the conclusion of the trial; and
 - C. Proposed findings of fact and conclusions of law (if a request for findings of fact and conclusions of law has been or will be filed).
2. Counsel shall meet at least **five (5) days before** the pretrial management conference to complete the form that is attached to this minute entry. Each attorney will list the witnesses that will be called and estimate the time for his or her direct examination of his or her witnesses and his or her cross-examination of opposing witnesses. In addition, counsel will estimate the time they will need for opening statements and closing arguments. The form must be brought to the Court at the pretrial management conference. The Court will use the form to predict the length of the trial for the jurors and to direct counsel to follow the time limits estimated.

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ATTACHMENT: Witness Information Form

3. Motions in limine may and shall be filed only in accordance with Rule 7.2, Rules of Civil Procedure (effective December 1, 2004). Prior to filing any motion in limine, the parties must meet and confer. No “prophylactic” motions in limine may be filed. Unless prior written leave of court is obtained for good cause shown, no party may file more than three (3) motions in limine, including all subparts.
4. All motions (except motions in limine) shall be filed no later than **March 3, 2005** so they can be scheduled, briefed, argued and decided prior to trial.
5. Prior to submitting the exhibits for trial to the division, counsel shall meet and confer to determine that there are no duplicate exhibits from either party. Duplicate exhibits will not be marked. At least one week before trial, the trial lawyers shall make an appointment for themselves or their knowledgeable assistants to meet with the clerk of this division, 602-506-8847, and present **all** exhibits for marking. The exhibits will be marked **numerically and serially** as they are listed in the pretrial statement - plaintiff's first, defendant's second. Please advise the clerk which exhibits may be marked directly in evidence.
6. Opinions of experts fairly sought and revealed in deposition or other discovery shall not be supplemented at trial.
7. The witness and exhibit lists shall contain no surprises; any information sought by other discovery devices and revealed for the first time on the witness or exhibit lists will be inadmissible at trial.
8. All documents and pleadings described above shall be delivered or telefaxed to opposing counsel on the date they are delivered to the Court.

WITNESS INFORMATION FORM

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT	CROSS
1			
2			
3			

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4			
5			
6			

DIRECT & CROSS TOTAL: _____

WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT	CROSS
1			
2			
3			
4			
5			
6			

DIRECT & CROSS TOTAL: _____

TOTAL WITNESS TIME ESTIMATE: _____

TIME ESTIMATE FOR:	PLAINTIFF		DEFENDANT
OPENING STATEMENT			
CLOSING ARGUMENT	1 st :	2 nd :	